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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

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AITHENT, INC.,

Plaintiff,

-against-

Case No. 4:11-CV-00173

(GAF)

THE NATIONAL ASSOCIATION  
OF INSURANCE COMMISSIONERS,

Defendant.

-----x

VIDEOTAPED  
DEPOSITION OF NARAYANASWAMY VENU GOPAL  
Wednesday, September 12, 2012  
New York, New York

REPORTED BY:  
Holly Hough

**ORIGINAL**

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September 12, 2012

9:43 a.m.

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Videotaped Deposition of NARAYANASAWAMY

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VENU GOPAL, taken by Defendant, pursuant to 30(b)(6)

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Notice, at the offices of Johnson Gallagher Magliery

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LLC, 99 Wall Street, 15th Floor, New York, New York

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10005, before Holly Hough, a Shorthand Reporter and

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Notary Public within and for the State of New York.

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ORIGINAL

## A P P E A R A N C E S

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## A P P E A R A N C E S (continued)

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## STIPULATIONS

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IT IS HEREBY STIPULATED AND AGREED by and

between counsel for the respective parties hereto,

that the filing, sealing and certification of the

within deposition shall be and the same are hereby

waived;

IT IS FURTHER STIPULATED AND AGREED that

all objections, except as to the form of the

question, shall be reserved to the times of the

trial;

IT IS FURTHER STIPULATED AND AGREED that

the within deposition may be signed before any

Notary Public with the same force and effect as if

signed and sworn to before this court.

1 Gopal 11

2 understanding as you give your answer. Okay?

3 A. Okay.

4 Q. And finally, we can take breaks throughout

5 the course of the day. I don't want you to be

6 uncomfortable. So if you need a break, just let me

7 know. We may need to finish a question or

8 something, but we will take a break at your

9 convenience and resume.

10 Now I will tell you, the fewer breaks we

11 take, the quicker we get done with the deposition.

12 So I'd like to go able to go for substantial periods

13 at a time, but if you need a break, just let me

14 know. Okay?

15 A. Okay.

16 Q. Mr. Gopal, who is your employer?

17 A. Aithent, Inc.

18 Q. And what is your position with Aithent,

19 Inc.?

20 A. I'm the Chief Executive Officer.

21 Q. Are you also the President?

22 A. Yes.

23 Q. You're the top person in the company?

24 A. That's correct.

25 Q. And Aithent, Inc. is the plaintiff in this

1 Gopal 15

2 assume you're referring to the plaintiff as well,  
3 okay?

4 A. Okay.

5 Q. If it is important for your answer that  
6 you distinguish between Aithent, Inc., the American  
7 corporation, and Aithent Technologies, the Indian --

8 Is it a corporation?

9 A. It's a Private Limited.

10 Q. Private Limited.

11 -- I'll ask you to make that distinction  
12 in your answer.

13 A. Okay.

14 Q. Otherwise, when you say Aithent, can we  
15 agree that when you say Aithent, you're referring to  
16 the American entity, which is the plaintiff in this  
17 case?

18 A. Okay, yes.

19 Q. Mr. Gopal, you understand that you're  
20 being put forward as a witness to testify on behalf  
21 of Aithent, correct?

22 A. Yes.

23 Q. And did you get a copy of --

24 MR. SIMON: Exhibit 22, please.

25 (Defendant's Exhibit 22, Amended Notice of

1 Gopal 16

2 Rule 30(b)(6) Deposition of Aithent, Inc.,  
3 marked for identification, as of this date.)

4 Q. Mr. Gopal, I'm going to hand you a copy of  
5 Exhibit 22. It's an Amended Notice of Rule 30(b)(6)  
6 Deposition of Aithent, Inc., which was filed in this  
7 matter on March 30, 2012 and provided to your  
8 lawyers at that time.

9 Have you seen this document, Exhibit 22,  
10 before?

11 A. Yes, I have.

12 Q. And do you understand that by appearing in  
13 this deposition today, you are speaking on behalf of  
14 Aithent, Inc.?

15 A. Yes.

16 Q. And that your testimony in this deposition  
17 will bind Aithent?

18 A. Yes.

19 Q. Mr. Gopal, in Exhibit 22, there are 60  
20 different numbered paragraphs; are you being  
21 designated to testify on behalf of Aithent as to  
22 each one those 60 paragraphs?

23 A. I believe so, yes.

24 MR. SIMON: Steve, is Mr. Gopal going to  
25 be the only witness for Aithent on each of



1 Gopal 113

2 Q. Okay. Let me put it this way: From the  
3 very earliest point in negotiations with the NAIC  
4 that ultimately led to the licensing agreement, it  
5 was your understanding, Aithent's understanding,  
6 that the NIPR Gateway would be involved in accepting  
7 transactions, correct?

8 MR. JOHNSON: Objection to form.

9 A. I believe it was always my understanding  
10 that the NIPR Gateway could be used for this  
11 purpose.

12 Q. And in fact, in your design documents,  
13 which we will get into later, the architecture  
14 documents, what was then called the PIN Gateway?

15 A. Yes.

16 Q. Is the PIN Gateway the same thing as the  
17 NIPR Gateway?

18 A. I can't comment on that.

19 Q. In your understanding.

20 A. Again, I don't have an understanding that  
21 I can talk to.

22 Q. What do you understand the PIN Gateway to  
23 be?

24 A. Again, as I mentioned, it's not very clear  
25 to me as to what the PIN Gateway was, except for the

1 Gopal 115

2 producer database and 37 states are accepting  
3 electronic appointments and terminations. If by  
4 partnering with Aithent we can increase the number  
5 of transactions flowing through the NIPR Gateway,  
6 that would be attractive to both of us."

7 Is that what he said?

8 A. That's what this email said.

9 Q. And you received this email and read it at  
10 the time, right?

11 A. Yes.

12 Q. And it references the NIPR Gateway?

13 A. Yes.

14 Q. So you understood the concept at the very  
15 beginning that the NIPR Gateway was up and running,  
16 right?

17 A. Yes.

18 Q. And that the idea was to send transactions  
19 through the NIPR Gateway back to the states, right?

20 A. Yes.

21 Q. And that LEO's role in that or the  
22 potential partnership would be that LEO would be  
23 implemented in states to accept those transactions  
24 on the back end, right?

25 MR. JOHNSON: Objection to form.

1 Gopal 121

2 A. I think, again, it was a meeting of the  
3 minds for us because we did see a strong synergy in  
4 terms of what we were trying to do and what we saw  
5 the NAIC trying to do.

6 Q. And so you understood the NAIC, through  
7 its affiliate, NIPR, already had a front-end  
8 application where industry could submit certain  
9 transactions through the NIPR Gateway, correct?

10 A. Yes.

11 Q. And the idea was, in this initial  
12 discussion, that the LEO system might be licensed to  
13 states to process those transactions on the back  
14 end, right?

15 MR. JOHNSON: Objection to form.

16 A. I don't believe it was limited to that. I  
17 think those were one or two of the options that were  
18 discussed, but I also saw us having discussions  
19 where LEO functionality would be directly used to  
20 help the Gateway provide additional functions.

21 Q. What additional functions?

22 A. Non-resident licenses, for example.

23 Q. And how would the LEO functionality assist  
24 the Gateway in doing that?

25 A. It was that fact that we already had

1 Gopal 123

2 able to do that without having to write too much  
3 code.

4 Q. Now that initial discussion was in July of  
5 2001, right?

6 MR. JOHNSON: Objection to form.

7 A. I believe the initial meeting that Gary  
8 and I had was in July. If I look at this, yes,  
9 July 19, 2001.

10 Q. And NAIC and Aithent ultimately signed a  
11 contract in July of 2002, right?

12 A. That is correct.

13 Q. And in between that time, there were a  
14 great deal of negotiations and discussions,  
15 meetings, communications, between Aithent and NAIC,  
16 right?

17 A. Yes.

18 Q. And eventually it got to the point where  
19 there was a draft License Agreement and a draft  
20 master services agreement prepared, right?

21 A. Yes.

22 Q. And that document was passed back and  
23 forth between NAIC and Aithent as part of the  
24 negotiations, right?

25 A. Yes.

1 Gopal 124

2 Q. And Aithent was represented by counsel,  
3 correct?

4 A. Yes.

5 Q. That was Bill Bandon?

6 A. Correct.

7 Q. And Bill Bandon worked with counsel on  
8 behalf of the NAIC, right?

9 A. He worked, yes.

10 Q. In-house counsel?

11 A. Yes.

12 Q. Karen Schutter?

13 A. Yes.

14 Q. And it wasn't until July 15th of 2002 that  
15 that agreement was ultimately signed, right?

16 A. I believe that is correct.

17 Q. And that agreement accurately reflects the  
18 entire agreement among the parties, right?

19 A. I believe it does.

20 Q. If you look at paragraph 8 of the  
21 complaint, sir, it says, "Of course by granting NAIC  
22 the exclusive right to use LEO, Aithent was placing  
23 the commercial faith of its valuable product in  
24 NAIC's hands. Unfortunately, NAIC betrayed  
25 Aithent's trust and breached the agreement by

1 Gopal 127

2 Agreement; what do you want to call those?

3 MR. JOHNSON: Objection to form.

4 A. They are again the initial set of  
5 transactions.

6 Q. Can we call them the Exhibit D  
7 transactions?

8 MR. JOHNSON: They're Exhibit A.

9 Q. Okay. Can we call them the Exhibit A  
10 transactions?

11 A. If that's the exhibit, yes.

12 Q. Okay, here's my question to you: What  
13 transactions other than Exhibit A transaction are  
14 you contending you're entitled to a royalty on?

15 A. Well, again, if you look at the License  
16 Agreement, the License Agreement contemplated on  
17 receiving the exclusive rights to LEO in return for  
18 building a system, a web-based system, that would  
19 address market contact, licensing, and solvency  
20 requirements. And we believe that any transactions  
21 that might occur in any of those areas should be  
22 part of our agreement.

23 Q. Specifically what transactions?

24 MR. JOHNSON: Are you asking what  
25 transactions that are performed at NIPR?

1 Gopal 130

2 today, SBS, needs to be implemented in a state to  
3 result in a sharing of that revenue stream,  
4 transaction revenue steam.

5 Q. So in order for Aithent to share in a  
6 transaction revenue stream, it has to be based on a  
7 transaction in a state in which SBS is implemented?

8 MR. JOHNSON: Objection to form.

9 A. No, that's not what I said. What I said  
10 is we believe and it is our position that we should  
11 share in the transaction revenues of all the  
12 transactions that were listed in Exhibit A of our  
13 License Agreement, regardless of whether or not the  
14 LEO code is being used, with the caveat that there  
15 were some states that were carved out, I believe  
16 that was Exhibit D, where there was an existing  
17 revenue stream for appointments and terminations.

18 Q. We kind of slipped there. I'm interested  
19 in non-Exhibit A transactions. And you have  
20 identified OPTins and rates and forms, okay. Any  
21 others?

22 A. Well, again, to the best of my knowledge,  
23 you've got products and services such as i-site,  
24 that provides solvency functions, certainly OPTins  
25 is one, certainly the rates and forms would be

1 Gopal 177

2 NAIC who had started development of a system.

3 Q. And did you understand that the decision  
4 NAIC had to make was whether to continue with that  
5 effort internally to develop a state-based system  
6 or, alternatively, to license LEO and take advantage  
7 of whatever development that Aithent already done in  
8 the form of LEO?

9 A. Yes.

10 Q. And at the time during those negotiations,  
11 you understood NAIC and NIPR were closely  
12 affiliated, right?

13 A. Yes.

14 Q. And you knew that NIPR already had a  
15 front-end portal, an external-facing portal, for  
16 industry and producers to enter transactions,  
17 correct?

18 A. Yes.

19 Q. And that that portal, known as the PIN  
20 Gateway, NIPR Gateway, connected on the back end  
21 with state systems, correct?

22 A. Yes.

23 Q. And did NAIC communicate to you that what  
24 it was looking for was the back-end system that  
25 would be deployed in the individual states because



1 Gopal 182

2 transactions should rightfully be part of the SBS  
3 initiative.

4 Q. Paragraph 30, please read that. You say  
5 in there, I'm looking at the top of page 10, that  
6 "NAIC refused to pay Aithent any portion of the  
7 revenue that NAIC and/or NIPR generated by  
8 processing transactions using Gateway."

9 Sir, is that a true statement?

10 A. Again, from our perspective, we had  
11 indicated that we were troubled by this issue. If  
12 the question was did we demand that, the answer is  
13 no, we didn't demand that.

14 Q. My question is, as you sit here today, do  
15 you know, is it your position that NAIC has not paid  
16 to Aithent any portion of the revenue that NAIC or  
17 NIPR generated by processing transactions using  
18 Gateway?

19 MR. JOHNSON: In any transaction?

20 MR. SIMON: I'm just reading from the  
21 complaint.

22 MR. JOHNSON: Okay.

23 A. I mean, reading it here, I would say to  
24 you that the NAIC did pay for transactions that went  
25 through Gateway in those states where the SBS code

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2 was implemented.

3 Q. Is that what you have referred to as SBS  
4 states?

5 A. I believe so, yes.

6 Q. One of Aithent's claims in this lawsuit is  
7 that the NAIC breached a services agreement with  
8 Aithent by hiring Sanjay Saini, correct?

9 A. Yes.

10 Q. Isn't it true that you told NAIC back at  
11 or near the time that you hired Mr. Saini that you  
12 could not stop them from hiring him?

13 A. I believe that my statement was that as  
14 long as the NAIC were committing to us that they had  
15 not broached this topic with him prior to the end of  
16 that moratorium phase that I'd have no issues with  
17 them hiring him.

18 Q. In fact you told the NAIC it was okay to  
19 go ahead and hire Sanjay, didn't you?

20 A. Based on what was communicated to me.

21 Q. And Mr. Saini had left Aithent and gone to  
22 work for Oracle, right?

23 A. That is correct.

24 Q. And NAIC hired him from Oracle, right?

25 A. I believe that is correct.

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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

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AITHENT, INC.,

Plaintiff,

-against-

Case No. 4:11-CV-00173

(GAF)

THE NATIONAL ASSOCIATION  
OF INSURANCE COMMISSIONERS,

Defendant.

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CONTINUED

VIDEOTAPED DEPOSITION OF NARAYANASWAMY VENU GOPAL

Thursday, September 13, 2012

New York, New York

REPORTED BY:

Holly Hough

**ORIGINAL**

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September 13, 2012

9:26 a.m.

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Continued Videotaped Deposition of

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NARAYANASWAMY VENU GOPAL, taken by Defendant,

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pursuant to Adjournment, at the offices of Johnson

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Gallagher Magliery LLC, 99 Wall Street, 15th Floor,

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New York, New York 10004, before Holly Hough, a

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Shorthand Reporter and Notary Public within and for

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the State of New York.

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## A P P E A R A N C E S (continued)

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ALSO PRESENT:

ALEXIS REBOLLEDO, Legal Video Specialist

1 Gopal 280

2 processed in states which have licensed SBS?

3 A. Yes, we have, in states.

4 Q. As I understand it, your claim in this  
5 lawsuit is not that you have been underpaid on  
6 royalties for transactions which were processed in a  
7 state which licensed SBS; is that correct?

8 A. I believe so, yes.

9 ~~Q. Your claim rather is that you want to be~~  
10 paid for transactions processed through the NIPR  
11 Gateway that did not get processed in a state which  
12 has licensed SBS?

13 MR. JOHNSON: Objection to form.

14 A. That is certainly one part of it, yes.

15 Q. What are the other parts of it?

16 A. I believe, again, that with regard to  
17 these royalties, that royalties for those  
18 transactions listed in Exhibit A, including  
19 appointments and terminations, would be shared with  
20 us regardless of whether or not SBS is implemented  
21 in the state.

22 Q. And that was your understanding from the  
23 date the agreement was signed?

24 A. That's certainly one part of the  
25 royalties, yes.

1 Gopal 362

2 five-year period on your claim for royalties that  
3 passed through the NIPR Gateway?

4 A. Yes.

5 Q. When does that five-year period begin?

6 MR. JOHNSON: Asked and answered.

7 A. When they start using it.

8 Q. "It" being what?

9 A. The state accepts transactions from the  
10 NIPR Gateway.

11 Q. So any state that was accepting  
12 transactions from the NIPR Gateway as of the first  
13 date of the agreement, as of July 15, 2002, then  
14 your right to recover royalties from that state  
15 expires on July 15, 2007; is that correct?

16 A. If that state was using it, yes.

17 Q. Using the NIPR Gateway?

18 A. Yes.

19 Q. Clearly that state wasn't using SBS  
20 because no state was licensed to use SBS on the  
21 first date of the agreement, correct?

22 A. That is correct. However, you have to  
23 recall, again, Aithent licensed LEO to the NAIC  
24 exclusively with no up-front fee.

25 Q. Does NIPR license its Gateway to the